

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 213

HOUSE BILL 2137

AN ACT

AMENDING TITLE 11, CHAPTER 7, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-1014.01; AMENDING SECTIONS 11-1022 AND 13-1208, ARIZONA REVISED STATUTES; RELATING TO HANDLING OF ANIMALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 11, chapter 7, article 6, Arizona Revised Statutes,
3 is amended by adding section 11-1014.01, to read:

4 11-1014.01. Aggressive dogs; reasonable care requirements;
5 violation; classification; definitions

6 A. A PERSON WHO OWNS OR WHO IS RESPONSIBLE FOR THE CARE OF AN
7 AGGRESSIVE DOG SHALL TAKE REASONABLE CARE TO:

8 1. PROHIBIT THE DOG FROM ESCAPING TO THE OUTSIDE OF A RESIDENCE OR AN
9 ENCLOSED AREA, YARD OR STRUCTURE.

10 2. CONTROL THE DOG IN A MANNER THAT PREVENTS THE DOG FROM BITING OR
11 ATTACKING A PERSON OR DOMESTIC ANIMAL AT ALL TIMES WHILE THE DOG IS OFF THE
12 OWNER'S OR RESPONSIBLE PERSON'S PROPERTY.

13 B. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

14 1. A DOG THAT IS OWNED BY A GOVERNMENTAL AGENCY AND THAT IS BEING USED
15 IN MILITARY OR POLICE WORK.

16 2. A SERVICE ANIMAL AS DEFINED IN SECTION 11-1024.

17 3. A DOG THAT IS INVOLVED IN AN OTHERWISE LAWFUL ACT OF HUNTING,
18 RANCHING, FARMING OR OTHER AGRICULTURAL PURPOSE.

19 C. A VIOLATION OF SUBSECTION A, PARAGRAPH 2 OF THIS SECTION IS A CLASS
20 1 MISDEMEANOR. A VIOLATION OF SUBSECTION A, PARAGRAPH 1 OF THIS SECTION IS A
21 CLASS 3 MISDEMEANOR.

22 D. FOR THE PURPOSES OF THIS SECTION:

23 1. "AGGRESSIVE DOG" MEANS ANY DOG THAT HAS BITTEN A PERSON OR DOMESTIC
24 ANIMAL WITHOUT PROVOCATION OR THAT HAS A KNOWN HISTORY OF ATTACKING PERSONS
25 OR DOMESTIC ANIMALS WITHOUT PROVOCATION.

26 2. "REASONABLE CARE" MEANS THE DEGREE OF CARE THAT A PERSON OF
27 ORDINARY PRUDENCE WOULD EXERCISE IN THE SAME OR SIMILAR CIRCUMSTANCES.

28 Sec. 2. Section 11-1022, Arizona Revised Statutes, is amended to read:
29 11-1022. Sterilization of impounded dogs and cats; definition

30 A. A dog or cat shall not be released for adoption from a county, city
31 or town pound or from an animal shelter unless one of the following applies:

32 1. The dog or cat has been first surgically spayed or neutered OR
33 STERILIZED BY ANOTHER PROCEDURE.

34 2. There is no veterinary facility capable of performing ~~surgical~~
35 sterilization within a twenty mile radius of the pound or shelter.

36 3. A veterinarian determines that a medical contraindication for
37 ~~surgery~~ STERILIZATION exists that reasonably requires postponement of the
38 ~~surgery~~ STERILIZATION until the surgery OR ANOTHER APPROVED STERILIZATION
39 PROCEDURE can be performed in a safe and humane manner.

40 B. If subsection A, paragraph 2 or 3 of this section applies, the
41 adopting party shall sign an agreement to have the dog or cat ~~spayed or~~
42 ~~neutered~~ STERILIZED by a veterinarian within thirty days or within fifteen
43 days of a veterinarian's determination that ~~surgical~~ sterilization may be
44 performed in a safe and humane manner and shall deposit with the pound or

1 shelter an amount sufficient to ensure that the dog or cat will be
2 sterilized.

3 C. If the adoption fee includes the cost of ~~spaying or neutering~~
4 STERILIZATION, no deposit is required. The amount of the deposit required by
5 subsection B of this section shall be determined by the pound or shelter to
6 be comparable to the lowest fee charged by veterinarians in the county. The
7 pound or shelter shall refund to the adopting party any monies deposited
8 pursuant to the agreement if within the time provided in the agreement there
9 is presented a written statement signed by a licensed veterinarian that the
10 adopted dog or cat has been ~~spayed or neutered~~ STERILIZED.

11 D. Any deposit monies that are not refunded under subsection C of this
12 section shall be used only for the following purposes:

- 13 1. ~~Spaying or neutering~~ STERILIZATION OF dogs and cats.
- 14 2. Public education to prevent overpopulation of dogs and cats.
- 15 3. Costs of confirming that adopted dogs and cats are ~~spayed or~~
16 ~~neutered~~ STERILIZED.

17 E. This section does not apply to a county or incorporated city or
18 town that adopts an ordinance or resolution for dog and cat sterilization
19 that exceeds the requirements of this section.

20 F. A dog or cat shall not be released to its owner from a county, city
21 or town pound or from an animal shelter unless one of the following applies:

22 1. The dog has a current dog license pursuant to section 11-1008 at
23 the time the dog entered the pound or shelter.

24 2. The dog or cat has been ~~surgically spayed or neutered~~ STERILIZED
25 and implanted with a microchip for the purposes of identification at the dog
26 or cat owner's expense.

27 3. There is no veterinary facility capable of performing ~~surgical~~
28 sterilization within a twenty mile radius of the pound or shelter.

29 4. A veterinarian determines that a medical contraindication for
30 ~~surgery~~ STERILIZATION exists that reasonably requires postponement of the
31 ~~surgery~~ STERILIZATION until the surgery OR ANOTHER APPROVED STERILIZATION
32 PROCEDURE can be performed in a safe and humane manner.

33 5. The owner pays a fifty dollar recovery fee, in addition to any fees
34 and costs otherwise required pursuant to this article.

35 G. Before ~~surgically spaying or neutering~~ STERILIZING an animal
36 pursuant to subsection F, paragraph 2 of this section, an animal shelter
37 shall hold the impounded dog or cat for a minimum of seventy-two hours and
38 make reasonable efforts to locate its owner by inspecting it for microchips,
39 tattoos or other identifying information.

40 H. For the purposes of this section,—:

41 1. "Animal shelter" means a duly incorporated humane society, animal
42 welfare society, society for the prevention of cruelty to animals or other
43 nonprofit corporate organization devoted to the welfare, protection and
44 humane treatment of animals.

2. "STERILIZATION" MEANS THE SURGICAL REMOVAL OF THE REPRODUCTIVE ORGANS OF A DOG OR CAT OR THE USE OF HUMANE NONSURGICAL METHODS AND TECHNOLOGIES APPROVED BY THE FOOD AND DRUG ADMINISTRATION, THE UNITED STATES DEPARTMENT OF AGRICULTURE OR THE ENVIRONMENTAL PROTECTION AGENCY TO PERMANENTLY RENDER THE ANIMAL UNABLE TO REPRODUCE.

Sec. 3. Section 13-1208, Arizona Revised Statutes, is amended to read:

13-1208. Assault; vicious animals; classification; exception; definition

A. A PERSON WHO INTENTIONALLY OR KNOWINGLY CAUSES ANY DOG TO BITE AND INFLICT SERIOUS PHYSICAL INJURY ON A HUMAN BEING OR OTHERWISE CAUSE SERIOUS PHYSICAL INJURY TO A HUMAN BEING IS GUILTY OF A CLASS 3 FELONY, UNLESS THE PERSON WOULD BE JUSTIFIED IN USING PHYSICAL FORCE OR DEADLY PHYSICAL FORCE IN SELF-DEFENSE OR DEFENSE OF A THIRD PERSON PURSUANT TO CHAPTER 4 OF THIS TITLE.

A. B. A person who owns a dog that the owner knows or has reason to know has a HISTORY OF BITING OR A propensity to attack, to cause injury or to otherwise endanger the safety of human beings without provocation or that has been found to be a vicious animal by a court of competent jurisdiction and that bites, inflicts physical injury on or attacks a human being while at large is guilty of a class 1-misdemeanor 5 FELONY.

B- C. A person who owns OR WHO IS RESPONSIBLE FOR THE CARE OF a dog that the owner OR RESPONSIBLE PERSON knows or has reason to know has a HISTORY OF BITING OR A propensity to attack, to cause injury or to otherwise endanger the safety of human beings without provocation or that has been found to be a vicious animal and who keeps the dog or vicious animal in an enclosed area or yard outside of a residence or structure on the property shall post a notice indicating the presence of the dog or vicious animal BY A COURT OF COMPETENT JURISDICTION AND WHO DOES NOT TAKE REASONABLE CARE TO PROHIBIT THE DOG FROM ESCAPING TO THE OUTSIDE OF A RESIDENCE OR ENCLOSED AREA, YARD OR STRUCTURE IS GUILTY OF A CLASS 1 MISDEMEANOR.

~~6. D. This section does not apply to dogs that are owned or used by a law enforcement agency and that are used in the performance of police work.~~

E. FOR THE PURPOSES OF THIS SECTION, "REASONABLE CARE" MEANS THE DEGREE OF CARE THAT A PERSON OF ORDINARY PRUDENCE WOULD EXERCISE IN THE SAME OR SIMILAR CIRCUMSTANCES.

~~APPROVED BY THE GOVERNOR APRIL 25, 2011.~~

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2011.

Passed the House March 17, 2011

by the following vote: 58 Ayes,

1 Nays, 1 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate April 7, 2011

by the following vote: 25 Ayes,

3 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2137

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 19, 2011,
by the following vote: 57 Ayes,

3 Nays, 0 Not Voting

[Signature]
Speaker of the House
Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

20 day of April, 2011,

at 8:30 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 25th day of

April, 2011,

at 12:40 o'clock P. M.

[Signature]
Governor of Arizona

H.B. 2137

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 25th day of April, 2011,

at 2:45 o'clock P. M.

[Signature]
Secretary of State